

### **REMARKS/ARGUMENTS**

The non-final Office Action of October 21, 2004, has been carefully reviewed and these remarks are responsive thereto. Reconsideration and allowance of the instant application are respectfully requested. Claims 1, 6, 10, 22, 35, 39, 42, 45 and 49 have been amended. Claims 4-5, 7-8, 11-14, 24-26, 29-30, 37-38, and 40-41 have been canceled. Claims 51-59 have been added. Claims 1-3, 6, 9-10, 15-23, 27-28, 31-36, 39, and 42-59 remain pending.

Applicants' thank the Examiner for the indication that claim 50 is allowed and that claims 7-8, 13-14, 25-26, 29-30, and 46-47 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form.

Claims 1, 22, 35, and 49 have been amended to include many of the features of Applicants' original dependent claims 5, 38, and 41. Claim 45 has been amended to include features of original dependent claim 5. Claims 6, 10, 39, and 42 have been amended to correct dependency in response to amendments made to their respective ultimate base claim. New claims 51-58 re-present original dependent claims 7-8, 13-14, 25-26, and 29-30 in independent form. New claim 59 has been added to include many of the features of dependent claim 41. Support for the new claims can be found throughout the original written description and drawings.

Claims 1-6, 9-12, 15-24, 27-28, 31-45, and 48-49 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Yano et al. (U.S. Patent No. 6,701,372, hereinafter referred to as *Yano*). Applicants respectfully traverse this rejection.

Applicants' amended claims 1 and 22 each recites, among other features, "adapting, by the server, a type of content to be sent to the client based on a measurement determined during act (1)." The Action relies on column 12, lines 45-65 of *Yano* as describing this feature. Contrary to the Action's assertion, *Yano* fails to teach or suggest at least this feature of Applicants' independent claims 1 and 22.

Column 12, lines 45-65 of *Yano* describes reception of a receiver report at a camera server **1001-1**, where a frame transmission start timing and transmission bit rate are determined. A receiving terminal **1001-2** receives the data and processes it for display. Similarly with respect

to Applicants' dependent claim 12, the Action relies on a different portion of *Yano* to describe this same feature. Specifically, the Action cites column 3, lines 14-29, of *Yano*. The cited portions of *Yano* or any other portion fail to teach or suggest any type of adapting, by a server, a type of content to be sent to a client.

In one embodiment of Applicants' original written description, an adaptor 406 adapts content sent from application 404 to the client 202 based on the perceived bit rate. This adaptation may include choosing a specific file from among multiple versions of the file, extracting parts of a scalable content or performing processing on the content to better fit the network bit rate and keep the waiting time for the user at the client under control. (See Applicants' original written description, page 11, paragraph [55]). *Yano* fails to teach, suggest, or describe any type of "adapting, by the server, a type of content to be sent to the client based on a measurement determined during act (1)." Instead, *Yano* assigns sequence numbers to segmented data and transmits the data. Upon receipt of a receiver report, a network buffer data volume calculator calculates data volume on the network and a transmission rate change unit determines the transmission rate in accordance. However, there is no aspect of the *Yano* reference that describes any type of adapting a type content of the data being transmitted. Because *Yano* fails to teach or suggest each and every feature of Applicants' claims 1 and 22, withdrawal of the rejection is respectfully requested.

Applicants' claims 2-3, 6, 9-10, 15-21, which depend on claim 1, and claims 23, 27-28, and 31-34, which depend from claim 22, are patentably distinct over the art of record for at least the same reasons as their ultimate base claim and further in view of the novel features recited therein. For example, the art of record fails to teach or suggest, "adapting a resolution of an image to be sent to the client" as recited, among other features, in Applicants' claim 6, "wherein the bit rate is reported in a form of a range of bits" as recited, among other features, in Applicants' claim 15, and "wherein act (1) is performed at an application level within the client, such that a perceived bit rate is measured for a plurality of applications executing on the client" as recited, among other features, in Applicants' claim 18.

Applicants' amended claims 35 and 45 each recite features similar to those recited in amended claims 1 and 22. In particular, each of amended claims 35 and 45 recite, "an

adapter...to adapt a type of content to be sent to the second apparatus based on a measurement determined by the bit rate measurer.” For at least similar reasons to those recited above with respect to Applicants’ claims 1 and 22, Applicants’ claims 35 and 45 are patentably distinct over *Yano*. The *Yano* system fails to teach or suggest a type of content that is adapted by a server. Therefore, *Yano* fails to teach or suggest each and every feature of Applicants’ claims 35 and 45. As such, withdrawal of the rejection is respectfully requested.

Applicants’ claims 36 and 46-48, which depend from claims 35 and 45, are patentably distinct over the art of record for at least the same reasons as their ultimate base claim and further in view of the novel features recited therein.

Applicant’s amended claim 49 recites, among other features, “the bit rate measurer is arranged to measure the bit rate at an application level within the mobile terminal, such that a perceived bit rate is measured for a plurality of applications executing on the mobile terminal.” Applicants’ new claim 59 recites a similar feature. This feature of Applicants’ amended claim 49 and new claim 59 is similar to some of the features of dependent claim 41. In rejecting dependent claim 41, the Action relies only on Figures 10 and 11 of *Yano*. Contrary to the Action’s assertion, *Yano* fails to teach or suggest at least this feature of Applicants’ independent claims 49 and 59.

Figures 10 and 11 are described in the Brief Description of the Drawings portion of *Yano*. Specifically, Figure 10 “shows an example of the format of a receiver report in the fourth embodiment” and Figure 11 “shows the format of an RTCP receiver report packet as an example of the fourth embodiment.” (Col. 2, lines 33-36). Neither of these two Figures 10 or 11 show or describe anything that relates to multiple applications. Neither the cited portion nor any other portion of *Yano* teaches or suggest multiple applications in the data transmission. Further, *Yano* fails to teach or suggest any type of perceived bit rate measurement for a plurality of applications. For at least this reason, *Yano* fails to teach or suggest each and every feature of Applicants’ claims 49 and 59. As such, withdrawal of the rejection is respectfully requested.

Applicants’ claims 39 and 42-44, which depend from claim 59, are patentably distinct over the art of record for at least the same reasons as their ultimate base claim and further in view of the novel features recited therein.


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### CONCLUSION

All rejections having been addressed, Applicant respectfully submits that the instant application is in condition for allowance, and respectfully solicits prompt notification of the same. Should the Examiner find that a telephonic or personal interview would expedite passage to issue of the present application, the Examiner is encouraged to contact the undersigned attorney at the telephone number indicated below. If any additional required fees are or if an overpayment has been made the Commissioner is authorized to charge or credit Deposit Account No. 19-0733. Applicant looks forward to passage to issue of the present application at the earliest convenience of the Office.

Respectfully submitted,  
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